

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

JOHN J. VAUGHN, GERALD A.
KALBFLEISCH, MICHAEL HATHAWAY, and
MYRTLE HATHAWAY,

Plaintiffs,

v.

PUTNAM INVESTMENT MANAGEMENT,
LLC and PUTNAM RETAIL MANAGEMENT,
LIMITED PARTNERSHIP,

Defendants.

Civil Action No. 04-10988-GAO

**PLAINTIFFS' ASSENTED TO MOTION TO FILE THEIR REPLY MEMORANDUM
UNDER SEAL AND TO IMPOUND CERTAIN CONFIDENTIAL SUPPORTING
MATERIALS**

In connection with Plaintiffs' Motion for Leave to File a Reply Memorandum in Support of Plaintiffs' Motion to Expand the Twenty Deposition Limit, Plaintiffs respectfully move the Court, pursuant to Local Rule 7.2, for an Order permitting the filing of a "Confidential Reply Memorandum" and a "Confidential Appendix" to be filed under seal and impounded until further order of the Court. As grounds for this Motion, Plaintiffs further state as follows:

1. On January 31, 2007, Plaintiffs filed their Unopposed Motion for Leave to File a Reply Memorandum in Support of Plaintiffs' Motion to Expand the Twenty Deposition Limit with this Court.
2. Plaintiffs expect to file the proposed Reply Memorandum in Support of Plaintiffs' Motion to Expand the Twenty Deposition Limit within the next week.
3. In order to rebut Defendants' arguments, Plaintiffs need to submit confidential or highly

confidential materials which are subject to the Stipulated Protective Order (Dkt. No. 43) to this Court for review, and consideration. Plaintiffs further need to discuss these documents within their proposed Reply Memorandum.

4. By this Motion, Plaintiffs request leave to file these materials in a separate appendix marked "Plaintiffs' Confidential Appendix," and to discuss these materials in Plaintiffs' proposed Reply Memorandum, which Plaintiffs will mark as "Plaintiffs' Confidential Reply Memorandum."
5. This Motion is supported by the Stipulation and Order which provides for the filing under seal of materials designated by the parties as Highly Confidential or Confidential.
6. Local Rule 7.2(a) requires that a motion to impound "contain a statement of the earliest date on which the impounding order may be lifted, or a statement, supported by good cause, that the materials should be impounded until further order of the court. The motion shall contain suggested custody arrangements for the post-impoundment period."
7. Plaintiffs suggest that at the conclusion of the litigation, after any appeals have been exhausted, "Plaintiffs' Confidential Appendix" and "Plaintiffs Confidential Reply Memorandum" be returned to Plaintiffs' counsel of record for handling in accordance with the terms of the Stipulation and Order.
8. As part of the proposed Reply Memorandum, Plaintiffs desire to include confidential or highly confidential materials that are protected by the Stipulated Protective Order entered into by the Parties.
9. Plaintiffs have met and conferred with Defendants regarding the filing of this Motion, and Defendants assent to the filing of this Motion.

WHEREFORE, Plaintiffs respectfully request that this Court allow the instant Motion to File the Reply Memorandum Under Seal and to Impound Certain Supporting Materials.

CERTIFICATION UNDER LOCAL RULE 7.1(a)(2)

The undersigned hereby certifies that Plaintiffs' counsel has conferred with counsel for Defendants, who do not oppose the relief sought by this motion.

Dated: February 5, 2007

Respectfully submitted,

/s/ David E. Marder

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CERTIFICATE OF SERVICE

I, David E. Marder, hereby certify that this document filed through the ECF system on February 5, 2007, will be served electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those non-registered participants.

/s/ David E. Marder

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